

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)	
OF APPROPRIATE RATEMAKING)	CASE NO. IPC-E-05-26
TREATMENT OF IDAHO POWER)	
COMPANY'S SO2 ALLOWANCE SALE)	ORDER NO. 30041
PROCEEDS)	

On April 7, 2006, the parties to this case filed a Stipulation with the Commission evidencing their agreement upon the disposition of the proceeds from the sale of the Company's excess SO2 emission allowances. The parties sought the Commission's adoption and approval of the Stipulation. With this Order the Commission accepts and adopts the parties' Stipulation as more fully set forth below.

BACKGROUND

On June 9, 2005, Idaho Power Company (Idaho Power, Company) filed an Application requesting: (1) blanket authority to sell surplus sulfur dioxide (SO2) allowances; and (2) an accounting order to provide for recording any sale(s) of such allowances. Case No. IPC-E-05-20. The Company's Application also suggested that a determination of ratemaking treatment for the proceeds be made at a later date.

On August 22, 2005, the Idaho Public Utilities Commission (Commission) approved the Company's Application. Order No. 29852. The Commission, while reserving the review of the reasonableness of each sale, granted Idaho Power's request for blanket authority to sell SO2 emissions allowances and approved the accounting treatment proposed by the Company, on an interim basis, until such time as the Commission determines the appropriate ratemaking treatment of the proceeds from the sale of the SO2 allowances. *Id.* The Company was ordered to file a report with the Commission within 60 days of the receipt of any SO2 proceeds. *Id.* Additionally, the Commission ordered that a separate docket be opened for Staff to conduct workshops and make a recommendation to the Commission regarding the appropriate ratemaking treatment of SO2 proceeds. *Id.*

This case, IPC-E-05-26, was opened and two workshops were held on November 7 and November 23, 2005, respectively. During the workshops the parties were unable to reach agreement upon the ratemaking treatment of the proceeds. On March 6, 2006, the Commission issued Order No. 29989, establishing a comment deadline of March 31, 2006, and a subsequent

briefing schedule. On March 30, 2006, this comment deadline and briefing schedule were vacated based upon the parties' notification that an agreement had been reached. The Industrial Customers of Idaho Power and Micron were the only parties to petition for intervention, which was granted.

THE STIPULATION

The parties met on March 23, 2006, and reached agreement upon an appropriate ratemaking treatment for the allowance proceeds. The parties signed a Stipulation providing for the inclusion of the SO₂ allowance sales proceeds to be included in the Company's annual PCA, with 90% of the net proceeds to be passed on to customers, and 10% of the net proceeds to be retained as a shareholder benefit. This Stipulation has been filed with the Commission. Idaho Power has filed a Motion for Approval of the Stipulation asking the Commission to accept the Stipulation in its entirety without material change or condition. On April 11, 2006, the Commission issued a notice of the parties' settlement and established a comment deadline of April 24, 2006, for interested persons to submit comments regarding the Stipulation.

COMMENTS

The Commission received comments from the Commission Staff, the Northwest Energy Coalition, the U.S. Department of Energy (DOE), the Idaho Energy Education Project, six customers of Idaho Power, and reply comments from the Company.

Commission Staff filed comments supporting the terms laid out in the Stipulation and recommending the Commission approve the Stipulation with one change. The Stipulation reflects the SO₂ proceeds net of tax. Staff recommended the Commission include a provision for the gross-up of the benefits allocated to customers when that amount is returned to customers in the PCA if it approves the Stipulation. DOE filed comments supporting the Stipulation, but also pointing out that the net of tax credit of \$42,101,506 should be grossed up to reflect the tax savings when that credit is flowed through the PCA, making the customers 90% share approximately \$69,126,518. Idaho Power, in addition to filing a Motion for Approval of the Stipulation asking the Commission to accept the Stipulation in its entirety without material change or condition, filed reply comments in which it too supported a clarification to the Stipulation that the net of tax credit to customers be grossed-up to recognize the tax savings that will accrue when the credit is actually provided to customers through the PCA.

The comments of the Northwest Energy Coalition also supported the proposed allocation of the sale proceeds set forth in the Stipulation, but proposed that the Commission consider some alternative uses for some of the proceeds allocated to customers, such as earmarking some of the proceeds for longer-term conservation and efficiency programs. They suggested the Commission entertain suggestions on how some of these proceeds might be used to help foster initiatives that further reduce carbon emissions, promote carbon-reducing technologies, implementing more programs to reduce peak demand, leveraging funds for investments in agricultural biodigesters, or enhancing energy-savings weatherization and other programs for low-income customers.

The Idaho Energy Education Project likewise suggested that the proceeds from the sale of the SO₂ allowance be invested in programs aimed at cleaning up the Company's coal plants, energy efficiency and conservation programs, and renewables. They also suggest that some money be allocated to energy education programs in the schools. They suggest an allocation of 10% to Idaho Power investors, 10% to the Energy Education Project, and the remaining 80% to be split among the four Idaho Power ratepayer groups.

The remaining comments from Idaho Power customers all advocated returning the money back to the public and the customers. They suggested that some money be used for alternatives such as demand reduction and conservation, renewable energy and energy efficiency, grants to schools and universities for research and education, as well as returning it to customers to reduce their power bills. One commenter stated that some portion should be given to the Company's shareholders, but most should go to the customers.

DISCUSSION

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, its Application, and the issues involved in this case by virtue of Title 61, Idaho Code, including *Idaho Code* §§ 61-129, 328, 501-503, 507, 523, 524, and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.* A formal hearing is not required and we continue to find it appropriate to process this case by Modified Procedure. IDAPA 31.01.01.201-204.

Petitions to Intervene in this matter were filed by the Industrial Customers of Idaho Power (ICIP) and by Micron Technology, Inc. ICIP was granted intervention in Order No. 29978, and Micron was granted intervention in Order No. 30005.

The Commission under its Rules of Procedure must review settlements. IDAPA 31.01.01.274. The Commission may prescribe appropriate procedures for its consideration of the settlement. *Id.* The Commission is not bound by settlements, and will independently review proposed settlements to consider their reasonableness and determine whether it is just, fair, in the public interest, or otherwise in accordance with law or regulatory policy. IDAPA 31.01.01.276.

Based on our review of the Stipulation signed and filed by the parties to this case, as well as the file and record to date, we find the methodology proposed in the Stipulation for dividing and sharing the proceeds of the Company's sale of its excess SO2 emission allowances to be reasonable. Sharing the proceeds, 90% to customers and 10% to shareholders, will sufficiently align the interests of the Company's shareholders and customers, and provide a financial incentive to the Company to maximize any SO2 allowance sales for the benefit of both shareholder and customer.

We find that the PCA, which is designed to track and true-up abnormal power supply costs and revenues, is the logical mechanism to track and distribute proceeds from the sale of excess SO2 allowances. SO2 allowances are allocated to the Company based on the ownership and operation of its thermal/coal powered plants. Excess allowances are a direct result of many factors associated with the operation of the coal plants including installation of environmental equipment, the geographic location of the plant, the total time the plant is operated, the nature of the coal used to fuel the plant, as well as other factors. The allowances accrue as a direct result of plant operation and ownership in much the same way that energy generated from the plant is used to meet ratepayer demand and generate surplus sales revenue to offset plant-operating costs. To the extent that coal costs, environmental costs, and surplus energy sales increase/decrease these costs/benefits are passed through to the customers. We find it logical that SO2 allowances pass through in a similar manner. Consequently, we approve and adopt the Stipulation as a reasonable and logical method to both pass on a major portion of the proceeds to customers as well as align shareholder and ratepayer interests in obtaining the best possible price for excess allowance sales.

While we approve and accept the Stipulation including the flow through of current proceeds in the 2007-2008 PCA period, we note that by approving the Stipulation, which makes the proceeds a line item part of the annual PCA, we reserve or defer the determination of the magnitude of the credit for determination in the PCA proceeding. We also note that our approval

of the Stipulation is conditioned on the change/clarification that was agreed to in the comments of Commission Staff, the DOE, and Idaho Power. That change/clarification deals with the fact that the 90% share of proceeds that is to be distributed to customers is expressed as a net of taxes number in the Stipulation. While the 10% allocated to shareholders will be subject to income taxes, the 90% allocated to customers is a tax-timing difference only. Consequently, the approximately \$42.1 million (90%) benefit attributed to customers should be grossed-up when that amount is returned to customers through the PCA to properly reflect the timing difference (tax savings).

The Commission finds the Stipulation, with the change regarding gross-up referenced above, is just, fair, reasonable, in the public interest, and in accordance with law and regulatory policy. IDAPA 31.01.01.274, 276. Consequently, the Commission approves and adopts the settlement, as expressed in the Stipulation, by the parties to this case.

ORDER

IT IS HEREBY ORDERED that the Stipulation executed by the parties and filed with the Commission on April 7, 2006, is approved and adopted.

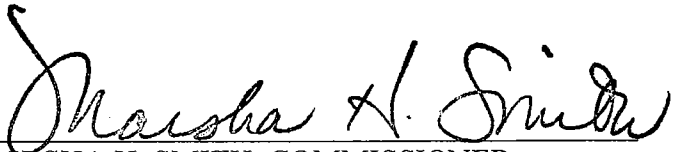
IT IS FURTHER ORDERED that the net of tax, 90% portion of the proceeds allocated to customers in the Stipulation shall be grossed-up to recognize the tax savings that will accrue when the 90% credit is provided to customers through the PCA. The Company has authority to defer the future sale proceeds that will be returned to customers. This will eliminate the need to calculate the net-of-tax amount when received and then gross it up when returned to customers.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 12th
day of May 2006.



PAUL KJELLANDER, PRESIDENT




MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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